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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/527,989

10/13/2005

Peter Forsell

2333-137

4862

23117

7590

10/09/2007

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ARLINGTON, VA 22203

EXAMINER

STOKLOSA, JOSEPH A

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

10/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/527,989 | <b>Applicant(s)</b><br>FORSELL, PETER |  |
|                              | <b>Examiner</b><br>Joseph Stoklosa   | <b>Art Unit</b><br>3762               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 1, 10, 20 and 21 recite the limitation of an "implanted receiver" which claims a connection to the human body. It is suggested this be corrected to read as an "implantable recover"
4. Claim 1, 10, 20 and 21, line 8 of claim 1, states, "characterized by..." however it is unclear what is being characterized. Proper correction is required.
5. Claim 1, 10, 20, and 21, recite the limitation "the environment" in line 8. There is insufficient antecedent basis for this limitation in the claim. Possible correction may read as "an environment..."

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 8, 10, 12-14, 16, 18, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. (US 5,741,315)

3. With regards to claims 1-4, Lee et al. disclose a transmitter containing a coil with a front end and a rear end (Fig. 1, Col. 4, line 20), a shield (FIG. 1, 16), a magnetizable casing surrounding the coil (Fig. 1, 20; col. , line 14). Lee et al. further discloses a casing surrounding the coil except for the front end (Fig 1, 20), and a casing that surrounds the circumference of the coil along the longitudinal extension of the coil (Fig.1, 20).

4. With regards to claim 6 and 16, Lee et al. disclose a casing for the transmission device comprising a cylindrical wall and circular gable wall (Fig. 1, 20; Fig. 1, 16)

5. With regard to claim 8 and 18, Lee et al. also discloses that the shield is made of a ferrite (col. 4, line 3).

6. Regarding Claims 10, 12-14, Lee et al. discloses an apparatus for wireless transfer of energy containing a transmitter (Fig. 1, Col. 4, line 20), a implantable receiver (col. 1, line 9), and at least one shield (FIG. 1, 16), adapted to shield the environment from said alternating magnetic field generated by said coil except at said front end of said coil, and a magnetizable casing (Fig. 1, 20; col. 4, line 14), and surrounding said rear end of said coil and the circumference of said coil along at least a portion of said longitudinal extension of said coil (Fig. 1, 20). Lee et al. further discloses that the casing completely surrounds the coil except for the front end. (Fig.1, 20), and that the casing

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surround the circumference of the coil along the longitudinal extension of the coil. (Fig. 1, 20).

7. Regarding Claims 20 and 21, Lee et al. discloses a method for wireless transfer of energy to a medical device implanted in a human comprising an implanted receiver (col. 1, line 9), an external transmitter (Fig. 1, Col. 4, line 20) containing a coil having a longitudinal extension with a front and rear end (FIG. 1; 12, 14) that is directed at the receiver through the body, that transmits an alternating magnetic field (col. 1, line 25). Lee et al. also discloses a shield (Fig. 1, 16), which contains a magnetizable ferrite casing (col. 4, line 3).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5, 7, 11, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al.

10. Claims 5, 7, 15, and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. Regarding claims 5 and 15, Lee et al. discloses the

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claimed invention except for having the core and/or the coil extending past the casing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the coil and casing as taught by Lee et al., with an extended coil and core and, since it was known in the art that if you extend the coil and core past the casing, you will make the impinging field wider and/or stronger.

11. Regarding claims 7 and 17, Lee et al. disclose the claimed invention, however does not disclose cut out slits on the sidewall of the casing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Lee et al. with side wall cut out slits, since it is known in the art that side wall cut out slits are used to provide a stronger magnetic fields along with ventilation to prevent overheating.

12. Regarding claim 11, Lee et al. discloses a second coil (Fig. 1, 12, 22, 24), but fails to disclose the second coil disposed within the shield of the transmitter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Lee et al. with a second coil disposed within the housing, since it is known that if the coil is disposed within the housing then the user will not absorb electromagnetic waves.

13. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. in view of Winkler (US 5,527,348).

14. Regarding Claims 9 and 19, Lee et al. discloses the claimed invention except for the plastic casing and the casing being an order of centimeters from the coil. Winkler

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teaches that it is known to use a plastic casing as set forth in (Column 4, Lines 35-48) to provide the operator with a buffer between their hand and the magnetic field created by the coil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the casing as taught by Lee et al., with plastic casing as taught by Winkler, since such a modification would provide the transmitter with a plastic casing for providing the operator with a buffer between their hand and the magnetic field created by the coil.

### ***Response to Arguments***

15. Applicant's arguments filed 7/10/2007 have been fully considered but they are not persuasive. Applicant argues that the prior art of Lee does not disclose transmitting electric magnetic field energy to an implantable receiver, rather Lee is concerned with a data telemetry transmission system. While Lee primarily is focused on an inductive coupling system for transmitting and receiving data, it is reminded to applicant that the claims only read on transmission of energy, and Lee accomplishes the transfer of telemetry data through a transmission of electromagnetic energy. The functional use language of the energy to be used to supply energy for operating the energy-consuming device is not given patentable weight. In order to be given patentable weight, a functional use recitation must be expressed as a "means for" performing the specified function as set forth in 35 USC 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

***Conclusion***

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Stoklosa whose telephone number is 571-272-1213. The examiner can normally be reached on Monday-Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

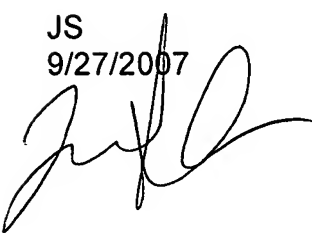


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joseph Stoklosa  
Examiner  
Art Unit 3762

JS  
9/27/2007



GEORGE R. EVANSKO  
PRIMARY EXAMINER  
9/27/7